

# HOUSE BILL No. 1183

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 29-3-9-1; IC 31-33-8-15; IC 34-30-2-134.2.

**Synopsis:** Guardianship; department of child services. Provides that a delegation of power by a properly executed power of attorney does not subject the parties to any laws, rules, or regulations concerning the licensing or regulation of foster family homes, child placing agencies, or child caring institutions. Prohibits a licensed foster family home from providing supervision to a child who is the subject of a power of attorney while providing overnight care to a child placed in the foster family home unless the department of child services (department) grants an exception. Allows a parent to delegate the powers for a period longer than 12 months if the parent is on active duty service, except that the term of delegation may not exceed the term of active duty service plus 30 days. Provides that the department may provide information about community service programs that provide respite care, voluntary guardianship, or other support services for families in crisis to the parent or guardian of a child who is the subject of an assessment if the department classifies the assessment as unsubstantiated. Provides that: (1) if the department provides the information to a parent or guardian, the department may not initiate an investigation or assessment or substantiate an assessment of child abuse or neglect based solely on the provision of the information; and (2) the department is not liable for any action arising out of having furnished the information.

**Effective:** July 1, 2016.

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## Frizzell

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January 7, 2016, read first time and referred to Committee on Family, Children and Human Affairs.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1183

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 29-3-9-1, AS AMENDED BY P.L.81-2015,  
2       SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2016]: Sec. 1. **(a) As used in this section, "department"**  
4       **means the department of child services established by IC 31-25-1-1.**

5       **(b) As used in this section and except as otherwise provided in**  
6       **this section, "foster care" has the meaning set forth in**  
7       **IC 31-9-2-46.7.**

8       ~~(a)~~ **(c)** Except as provided in ~~subsection (b)~~, **subsections (d) and**  
9       **(h)**, by a properly executed power of attorney, a parent of a minor or a  
10       guardian (other than a temporary guardian) of a protected person may  
11       delegate to another person for:

12       (1) any period during which the care and custody of the minor or  
13       protected person is entrusted to an institution furnishing care,  
14       custody, education, or training; or

15       (2) a period not exceeding twelve (12) months;  
16       any powers regarding health care, support, custody, or property of the  
17       minor or protected person. A delegation described in this subsection is



effective immediately unless otherwise stated in the power of attorney.

~~(b)~~ **(d)** A parent of a minor or a guardian of a protected person may not delegate under subsection ~~(a)~~ **(c)** the power to:

(1) consent to the marriage or adoption of a protected person who is a minor; or

(2) petition the court to request the authority to petition for dissolution of marriage, legal separation, or annulment of marriage on behalf of a protected person as provided under

~~IC 29-3-9-12.2.~~ **section 12.2 of this chapter.**

~~(c)~~ **(e)** A person having a power of attorney executed under subsection ~~(a)~~ **(c)** has and shall exercise, for the period during which the power is effective, all other authority of the parent or guardian respecting the health care, support, custody, or property of the minor or protected person except any authority expressly excluded in the written instrument delegating the power. The parent or guardian remains responsible for any act or omission of the person having the power of attorney with respect to the affairs, property, and person of the minor or protected person as though the power of attorney had never been executed.

**(f) A delegation of powers executed under subsection (c) does not, as a result of the execution of the power of attorney, subject any of the parties to any laws, rules, or regulations concerning the licensing or regulation of foster family homes, child placing agencies, or child caring institutions under IC 31-27.**

**(g) Any child who is the subject of a power of attorney executed under subsection (c) is not considered to be placed in foster care. The parties to a power of attorney executed under subsection (c), including a child, a protected person, a parent or guardian of a child or protected person, or an attorney-in-fact, are not, as a result of the execution of the power of attorney, subject to any foster care requirements or foster care licensing regulations.**

**(h) A foster family home licensed under IC 31-27-4 may not provide overnight care and supervision to a child who is the subject of a power of attorney executed under subsection (c) while providing care to a child placed in the home by the department or under a juvenile court order under a foster family home license. Upon request, the department may grant an exception to this subsection.**

**(i) A parent who:**

**(1) is a member in the:**

**(A) active or reserve component of the armed forces of the United States, including the Army, Navy, Air Force,**



1 Marine Corps, National Guard, or Coast Guard; or

2 (B) commissioned corps of the:

3 (i) National Oceanic and Atmospheric Administration;  
4 or

5 (ii) Public Health Service of the United States  
6 Department of Health and Human Services;

7 detailed by proper authority for duty with the Army or  
8 Navy of the United States; or

9 (2) is required to:

10 (A) enter or serve in the active military service of the  
11 United States under a call or order of the President of the  
12 United States; or

13 (B) serve on state active duty;

14 may delegate the powers designated in subsection (c) for a period  
15 longer than twelve (12) months if the parent is on active duty  
16 service. However, the term of delegation may not exceed the term  
17 of active duty service plus thirty (30) days. The power of attorney  
18 must indicate that the parent is required to enter or serve in the  
19 active military service of the United States and include the  
20 estimated beginning and ending dates of the active duty service.

21 (d) (j) Except as otherwise stated in the power of attorney delegating  
22 powers under this section, a delegation of powers under this section  
23 may be revoked **at any time** by a written instrument of revocation that:

24 (1) identifies the power of attorney revoked; and

25 (2) is signed by the:

26 (A) parent of a minor; or

27 (B) guardian of a protected person;

28 who executed the power of attorney.

29 SECTION 2. IC 31-33-8-15 IS ADDED TO THE INDIANA CODE  
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
31 1, 2016]: **Sec. 15. (a) If the department classifies an assessment as**  
32 **unsubstantiated, the department may provide information about**  
33 **community service programs that provide respite care, voluntary**  
34 **guardianship, or other support services for families in crisis to the**  
35 **parent or guardian of the child who is the subject of the**  
36 **assessment.**

37 (b) If the department provides information to a parent or  
38 guardian under subsection (a), the department may not initiate an  
39 investigation or assessment or substantiate an assessment of child  
40 abuse or neglect based solely on the provision of the information.

41 (c) If the department classifies an assessment as substantiated,  
42 the department may refer the parent or guardian to a community



1 service program that provides respite care, voluntary  
2 guardianship, or other support services for families in crisis as  
3 appropriate to meet the needs of the family.

4 (d) The provision of information by the department under  
5 subsection (a) does not result in, or may not be considered to result  
6 in, any obligation on the part of the department.

7 (e) The department is not liable for any action arising out of  
8 having furnished the information in the manner required under  
9 subsection (a), including any delegation of powers executed under  
10 IC 29-3-9-1.

11 SECTION 3. IC 34-30-2-134.2 IS ADDED TO THE INDIANA  
12 CODE AS A NEW SECTION TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2016]: **Sec. 134.2. IC 31-33-8-15 (Concerning**  
14 **the department of child services providing information).**

